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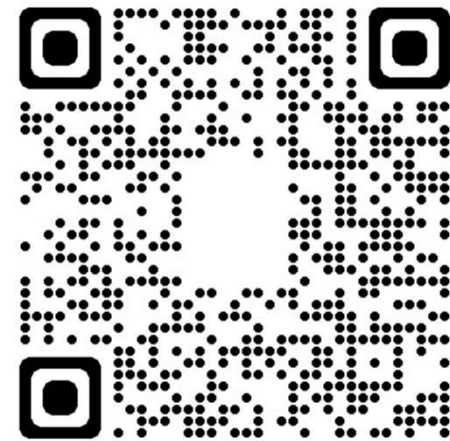
Sembrando la semilla de la justicia  
México

APPLESEED MEXICO

CHILDREN AT THE BORDER

Evaluation of the Protection and  
Care of Unaccompanied Mexican  
Migrant Children

UPDATE 2024



Appleseed  
Foundation

Texas Appleseed



HISPANICS IN  
PHILANTHROPY

2011

## Children at the Border:

The Screening, Protection and Repatriation  
of Unaccompanied Mexican Minors



Betsy Cavendish, Appleseed Executive Director

Maru Cortazar, Appleseed México Executive Director



In 2011, Appleseed (Appleseed USA and Appleseed Mexico) published a binational report entitled “**Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors**” with the aim of evaluating why Mexican unaccompanied children (UACs) are forced to migrate to the United States, what they experience during their journeys, and the U.S. and Mexican legal frameworks that exist to protect these children.

This binational report had significant impact and achieved wide acceptance in the community focused on the care and protection of Mexican UACs. The report analyzed the response models these children face in the U.S. and Mexico and found that both were failing to provide adequate protection to UACs.



## About This Report

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- **Semi-structured interviews** with strategic civil society actors and government and international bodies in MX and the U.S.
- **Focus groups** with migrant children from a variety of backgrounds at the northern border of Mexico.
- Information obtained through **requests for access to public information** in Mexico, through the National Institute of Transparency, Access to Information, and Protection of Personal Data (INAI).
- **Statistical and quantitative information** obtained from public government platforms and reports from civil society organizations.
- **Legal information** from MX and the U.S., including state and federal legislation, regulatory frameworks, judicial precedent, protocols, binational agreements, international regulatory frameworks, and others.
- Various **secondary sources**.

### 40 interviews

- 60% with representatives of civil society organizations (CSOs) that either provide direct care to migrant children, including legal support, psycho-social care, and humanitarian care, as well as organizations that advocate for the rights of these children
- 5% with academics
- 25% with governmental agencies
- 10% with international bodies

## ACKNOWLEDGMENTS

This report is the result of a pro bono collaboration of a team of more than 65 lawyers from the following Law firms in the US and Mexico.

We thank every lawyer and staff member who contributed to this report.

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**HISPANICS IN  
PHILANTHROPY**



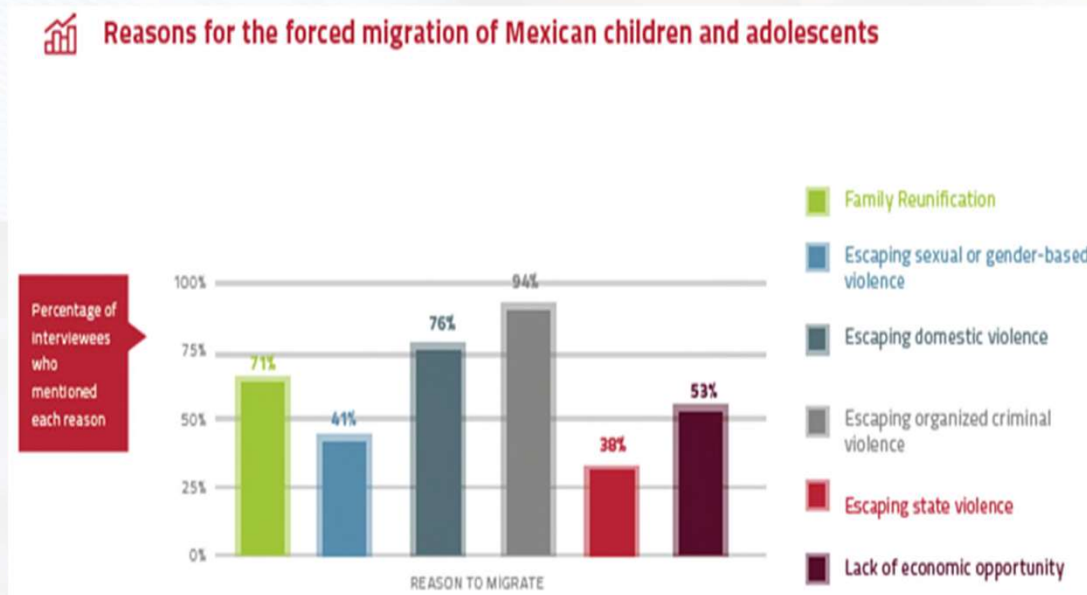
## 2023 Update: Repatriations

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An estimated **8 out of 10** Mexican UACs are returned to Mexico.


## 2023 Update: Reasons for Forced Migration



There has been a significant shift since 2011 in children's reasons for migrating to the United States. Thirteen years ago, the most-cited reason was a desire for better economic opportunities; that has now been eclipsed **by fears around violence and internal displacement**.

Family reunification remains an important reason, as it was in 2011.





There are also **concerns regarding the normalization of the life circumstances of children who fall victim to human trafficking and smuggling networks (“circuit children”)**, including the high frequency with which they cross the border, the lack of government intervention to stop the victimization and criminalization of these children, as well as the patterns and conditions that made them vulnerable to forced recruitment by organized criminal groups in the first place.

“None of these families had Nogales, Sonora, as their original destination, but it became a forced destination. In July 2021, the vast majority of families who arrived in a couple of weeks were all coming from the same municipality of Guerrero: Leonardo Bravo. When I asked them what happened there, they told me, “Organized crime came, and they told us, **‘You either work with us or you will be sorry,’**” so the families chose to leave. But they arrived [here] and found that there is no way forward, but they cannot go back either, as they burned their homes and [the criminal organizations] kept their land. **(Iniciativa Kino, Nogales, Sonora)**”



.....

“Especially from a community in Guerrero, in 2020, we had many displaced families. They told us that organized crime came to their home and if their children were boys, **they told them that it was time to take their children,** and what they did was not oppose and say that they had to prepare their children, [but] they would [then] leave their home in the morning and never return. That happens to men. Girls were recruited in order to prostitute them when they were between the ages of 12 and 16. They leave their communities and are looking to request asylum in the United States, and many are still waiting to do so. **(Centro de Atención al Migrante Exodus (CAME), Agua Prieta, Sonora)**”



A black and white photograph of two children walking away from the camera on a set of train tracks. The child in front is wearing a dark, hooded puffer jacket and dark pants. The child behind is wearing a light-colored jacket and a knit hat with a pom-pom. The tracks lead into the distance, flanked by dry, brushy vegetation. The overall mood is somber and evocative.

# FINDINGS AND RECOMMENDATIONS FOR THE PROTECTION OF CHILDREN ON THE BORDER

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## Findings and Recommendations for Mexico

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### **FINDING 1**

*Violence committed by organized crime, often in collusion with or due to the inaction of authorities, is the primary cause of the forced displacement of Mexican children and families.*

### RECOMMENDATIONS

- Strengthen the capacities and protection mechanisms of the Prosecutor's Offices for the Protection of Children and Adolescents and other federal, state, and local institutions responsible for the care of children in the origin states of children who experience internal forced displacement.
- Support public institutions and social and academic entities studying the causes of forced displacement in Mexico.
- Approve and implement, with the appropriate budget and focus on children, gender, and ethnic-cultural factors, the draft Law on Forced Displacement in Mexico that is being considered in Congress as of the date of this report.

## Findings and Recommendations for Mexico

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### FINDING 2

Violence committed by organized crime takes different forms based on gender, with **boys** suffering an increased risk of **forced recruitment**, and **girls** facing heightened risks of violence and **sexual exploitation**.

### RECOMMENDATIONS

- Generate and implement public policies and regulatory frameworks aimed at identifying and addressing the gendered aspects of forced displacement.
- Reform and reinforce the General Law on the Rights of Children and Adolescents of Mexico to better address sexual violence and forced recruitment of children.
- Reinforce the Prosecutor's Offices for the Protection of Children and other agencies in the country at all three levels of the Mexican government to prevent forced recruitment and sexual and gender-based violence (SGBV).
- Classify the recruitment of children by criminal groups as a crime. Additionally, it is essential to promote the separation of recruited child victims from criminal organizations, the physical and psychological recovery of such children, and the reintegration of these children into society.



## Findings and Recommendations for Mexico

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### **FINDING 3**

Child **victims of cross-border trafficking circuits (“circuit children”)** are criminalized and lack protection, while the root causes of this victimization and the impact it has on these children remain **unrecognized and neglected**.

### RECOMMENDATIONS

- Change the term used to refer to this group of children from “circuit children” to “child victims of cross-border trafficking and violence circuits.”
- Request the protective intervention of the Mexican Consular Network in coordination with the Mexican Prosecutor’s Offices for the Protection of Children.
- Strengthen binational coordination between Mexican and U.S. authorities on effective protection for child victims of cross-border traffic and violence circuits.
- Develop and implement, in coordination with the child protection authorities of Mexico and the United States, a notification system for the identification and protection of these children as victims of cross-border violence.

## Findings and Recommendations for Mexico

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### **FINDING 4**

*Mexican authorities do not actively promote Mexican children's access to international protection in the U.S., despite the fact that the primary cause of their forced displacement is violence and a lack of protection from the Mexican government.*

### RECOMMENDATIONS

- Evaluate and reinforce consular protocols and capacities for identifying credible fear and risks associated with UACs returning to their home communities.
- From the Mexican side, collaborate with U.S. CSOs—as a way to obtain subject matter expertise—to develop strategies for impact litigation and legislative or policy advocacy that would guarantee the rights of Mexican UACs to access international protection in the U.S.
- Request that the United Nations reevaluate the role that violence and displacement in causing UACs to need international protection.

## Findings and Recommendations for Mexico

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### **FINDING 5**

*Family separation at the border has increased as a survival strategy in the face of hardening U.S. immigration laws and the inaction of the Mexican government, creating increased risks for children during their crossing.*

### RECOMMENDATIONS

- Strengthen the capacity of federal, state, and local Prosecutor's Offices for the Protection of Children to identify high-risk situations for families in Mexico. To this end, support from specialized social organizations that help these families should be developed.



## Findings and Recommendations for Mexico

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### **FINDING 6**

*SIPINNA's Comprehensive Protection Path for the Rights of UACs offered in Mexico must be effectively implemented and extended to Mexican children to strengthen inter-institutional coordination for protecting forcibly displaced and returned Mexican children at the national and binational level.*

### RECOMMENDATIONS

- Activate the binational working group for the protection of migrant children to strengthen coordination and cross-border protection of migrant children.
- Increase the capacities of the institutions for childcare in Mexico (INM, PPNNAs, DIF) and implement, in an interdisciplinary manner, SIPINNA's Comprehensive Procedures for the Care for Migrant Children.
- Develop inter-institutional and binational mechanisms for the effective protection of migrant Mexican children within the framework of the state and local SIPINNAs of the northern border.
- Review and reinforce the procedures for determining the best interests of the child used by the Mexican Northern States' Prosecutor's Offices for the Protection of Children in order to avoid automatic returns of children to their places of origin without proper protections.

## Findings and Recommendations for Mexico

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### **FINDING 7**

*U.S. practice is to immediately return Mexican UACs without a proper evaluation of their **best interest** or protection needs. In Mexico, the government's automatic practice is the excessive use of institutionalization followed by returning the UAC to their place of origin without offering alternatives based on the best interest of the child.*

### RECOMMENDATIONS

- Limit the use of institutionalization for MX children who are returned from the US and seek alternative family and community care options that are more protective.
- Strengthen the application of procedures to determine the best interest of migrant Mexican children, with interdisciplinary evaluations that explore the possibilities of supervised or monitored family reunification, either in MX or in the U.S.
- Increase the capacity and coordination of child-related authorities at all government levels to carry out evaluations determining the best interest of the child with the technical support of social organizations and specialized international bodies.
- Continue to develop and increase, where possible, family reunification alternatives in the U.S. for Mexican children, as required by the child's best interest.

## Findings and Recommendations for Mexico

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### **FINDING 8**

*There is a documented lack of capacity, inconsistent data, and **weak inter-institutional coordination between the Mexican Authorities for the protection of children** and the consular network, leading to ineffective protection of Mexican children and adolescents in forced migration.*

### RECOMMENDATIONS

- Review and update the consular care protocols for migrant children in all key elements of the protection process (place, interview format, etc.) to provide greater rigor in detection and protection and improve coordination between the MX child protection authorities and the MX consular network in the U.S.
- Increase coordination between child-related authorities (DIF and PPNNAs) and the Consular Network to strengthen the care of at-risk Mexican migrant children in the U.S.
- Promote and create local and national coordination agreements between authorities of both countries to reinforce identification and protection of migrant children, including recognition and implementation of differentiated/intersectional approaches (gender, disability, age, etc.).
- Design and implement a comprehensive binational protection mechanism between the U.S. and Mexican child protection institutions to generate adequate protection measures and restitution plans for migrant Mexican children.
- Implement a national information system for the registration and identification of migrant children, including Mexican children in the U.S. and those returned to Mexico.



## Findings and Recommendations for the United States

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### **FINDING 1**

*CBP is not properly implementing TVPRA screening, resulting in Mexican UACs being denied access to international protection.*

### RECOMMENDATIONS

- Transfer TVPRA screening responsibilities to USCIS, an agency that provides its officers with specialized training and guidelines around interviewing children and people with special vulnerabilities.
- If screening responsibility is to remain with CBP, even during a period of transition while a plan is created to transition those duties to USCIS, a special unit should be formed to be specifically focused on performing this function.
- Continue to allocate and expand funds across DHS organizations to improve child welfare training for immigration staff and to hire child welfare professionals to aid in the process, focusing funding towards USCIS and ORR.
- Ensure that all personnel determining status of Mexican UACs have appropriate training, experience, and resources. In addition, ensure all personnel have interpretation services for indigenous Mexican languages and receive training in culturally sensitive treatment.

## Findings and Recommendations for the United States

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### **FINDING 2**

***CBP facilities continue to be inappropriate environments for the holding or interviewing of children.***

### RECOMMENDATIONS

- CBP should transfer Mexican UACs to ORR custody upon identification as UACs.
- ORR must provide care that complies with the Flores settlement in all facilities, including temporary or emergency facilities.
- CBP should continue—and report on—its recent efforts to improve its facilities and training.
- CBP should supplement new improvements with specific policies for the treatment of the most vulnerable children, if such policies do not exist.
- Provide safe, secure, and child-friendly environments for TVPRA interviews.

## Findings and Recommendations for the United States

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### FINDING 3

*The form CBP employs during the TVPRA screening process likely **remains insufficient**.*

#### RECOMMENDATIONS

- Improve forms and guidance to elicit sensitive information from UACs and to ensure that a child's decision to return is independent and voluntary

### FINDING 4

*Communications and coordination between U.S. and Mexican authorities around Mexican UACs is mixed, though **it largely remains insufficient** to protect all Mexican UACs.*

#### RECOMMENDATIONS

- U.S.-Mexico communications concerning UACs should promote the best interest of the child and comply with international law



## Findings and Recommendations for the United States

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### FINDING 5

While DHS is required to collect and enter the identifying information of all UACs into DHS's electronic database, **DHS still does not track any information related to TVPRA screening of Mexican UACs.**

#### RECOMMENDATIONS

- Track and publish data on UACs screened pursuant to the TVPRA

### FINDING 6

Mexican UACs—like all individuals seeking protection before USCIS or defending against removal before EOIR—do not have any right to a free, appointed lawyer if they cannot afford one. As a result, many children, including **many Mexican UACs, face the complex U.S. immigration system on their own and do not obtain the protection the law affords them.**

#### RECOMMENDATIONS

- All UACs should have access to a free lawyer to represent them before USCIS and/or EOIR if they cannot afford one.

## Findings and Recommendations for the United States

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### **FINDING 7**

*As an overall conclusion, the need **to protect Mexican UACs is urgent**. The current process for apprehending, screening, and—where required—repatriating Mexican **UACs places those children at immediate risk, and immediate action must be taken**. So, it is important that DHS move swiftly.*

### RECOMMENDATIONS

- DHS should move swiftly to put new policies into effect. While immediate, system-wide improvement would be best, any method that will allow DHS to move swiftly to implement, evaluate, and improve existing and new policies and programs to protect Mexican UACs is encouraged. Use pilot programs to test out new policies in specific border locations or among smaller cohorts where immediate, system-wide change is not feasible.

## Binational Mexico–United States Recommendations

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### FINDING 1

There **is insufficient coordination among Mexican and U.S. government authorities**, CSOs in both countries, and international organizations to guarantee the protection of Mexican migrant children.

### RECOMMENDATIONS

- Promote the binational working group's initiative to protect migrant children in MX and the U.S.
- Increase transparency of the working group's initiatives and the publication of its agreements and results.
- Evaluate the results generated by consular and other binational care protocols to protect children and readjust what is necessary for their effective implementation.
- Promote communication, coordination, and joint initiatives between international bodies and civil society organizations working to protect migrant children on both sides of the border.
- Initiate a more robust, coordinated, and multilateral investigative approach to address human trafficking, including further investigation into the financial models that underpin it.



## Binational Mexico–United States Recommendations

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### **FINDING 2**

***Family separation at the border has increased as a survival strategy in the face of hardening U.S. immigration laws and the inaction of the Mexican government.***

### RECOMMENDATIONS

- Strengthen and streamline coordination between MX and U.S. authorities to promote access to international protection for families displaced by violence who reach the border and prevent artificial creation of Mexican UACs.
- Advocate with U.S. governmental authorities to analyze whether new immigration policies will artificially create Mexican UACs and recraft policies to protect family unity and provide open access to international protection.
- Strengthen the capacities of the federal, state, and local Prosecutor's Offices for the Protection of Children in Mexico, including for identifying high-risk situations for families in the country. To this end, the support of specialized social organizations that help these families should be developed.

# APPLESEED MEXICO REPORT 2023 CHILDREN AT THE BORDER

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## QUESTIONS?

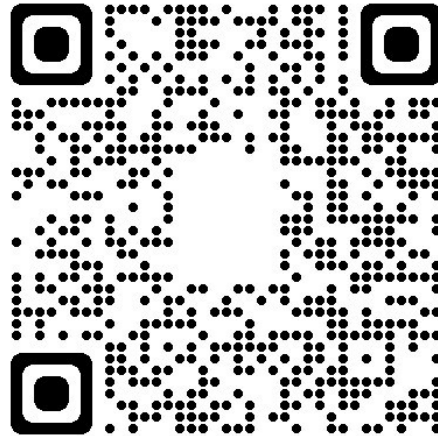
Akin  
Dasha Hodge  
[dhodge@akingump.com](mailto:dhodge@akingump.com)

Appleseed México  
Maru Cortazar  
[mcortazar@appleseedmexico.org](mailto:mcortazar@appleseedmexico.org)

DLA Piper LLP  
Crystal Doyle  
[crystal.doyle@us.dlapiper.com](mailto:crystal.doyle@us.dlapiper.com)

Hogan Lovells  
Ches Garrison  
[ches.garrison@hoganlovells.com](mailto:ches.garrison@hoganlovells.com)

Texas Appleseed  
Gabriella McDonald  
[gmcdonald@texasappleseed.org](mailto:gmcdonald@texasappleseed.org)



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**HISPANICS IN  
PHILANTHROPY**

The background of the entire page is a photograph of two children holding hands. The child on the left is wearing a light blue striped shirt and denim shorts. The child on the right is wearing a pink and white tie-dye t-shirt and denim shorts. The image is framed by a thick red border.

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